

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 21784 of 2006(R)

**AGAINST THE ORDER DATED 3/6/2006 IN IA NO. 5316/2005
IN IA.5317/2005 IN OS.126/1998 OF SUB COURT,THRISSUR**

PETITIONER:

**RAPPAL, S/O. MOLLEN PRANCHU,
JPANAMKUTTICHIRA ANGADI, EDAKKUNNI VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

**1. JOSEPH S/O. MACHINGAL CHERIYAN
CHIRAKKAKODE DESOM, MADAKKATHARA VILLAGE,
THRISSUR TALUK.**

**2. ALICE, D/O. PAVATTASSERY ANTONY,
AND WIFE OF JOSEPH, S/O. MACHINGAL CHERIAN
CHIRAKKAKKODE DESOM, MADAKKATHRA VILLAGE,
THRISSUR TALUK.**

BY ADV. SRI.K.A.SATHEESA BABU --- R1

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 21784/2005 R

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER DT. 3/6/06 IN IA NO. 5316/2005 & IA NO. 5371/2005 IN OS NO. 126/98 ON THE FILE OF THE SUB COURT, JUDGE.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE IA NO. 4465/04 DT. 6/10/04 TO AMEND THE WRITTEN STATEMENT.

EXT.R1B. COPY OF THE REPLICATION DT. 26/2/2005.

EXT.R1C. COPY OF THE IA NO. 5316/2005 DT. 4/11/2005 FOR AMENDING REPLICATION.

EXT.R1D. COPY OF THE IA NO. 5317/2005 DT. 4/11/2005 FOR AMENDING PLAINT.

EXT.R1E. COPY OF THE COUNTER DT. 17/11/2005 IN IA NO. 5316/2005.

EXT.R1F. COPY OF THE COUNTER DT. 17/11/2005 IN IA NO. 5317/2005.

True copy

tga

PIUS C. KURIAKOSE, J.

.....
W.P.(C)No.21784 OF 2006
.....

DATED THIS THE 9th JULY, 2007

J U D G M E N T

The petitioner is aggrieved by Ext.P1 order by which the learned Subordinate Judge has dismissed two applications for amendment—one for amendment of the plaint and one for amendment of the replication—stating inter alia that the amendment will change the character of the suit.

2. Even amendments which may change the nature and character of the suit may have to be allowed under certain circumstances. What the court is to ensure is only that the amendment does not result in injustice or cause any legal prejudice to the adversary in the litigation. Having regard to the rival submissions addressed before me, I am of the view that the learned Subordinate Judge could have allowed the applications for amendment, but only prospectively.

3. Accordingly setting aside Ext.P1 order, I allow I.A.Nos.5316 and 5317 of 2005 prospectively, i.e., with effect from the date of the amendment applications.

The Writ Petition is allowed as above. No costs.

tgl

(PIUS C.KURIAKOSE, JUDGE)

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